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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,364	12/17/2003	Theodore B. Mulle	883.0061USU	8555

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EXAMINER

FRANCIS, FAYE

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/738,364	Applicant(s) MULLE ET AL.	
	Examiner Faye Francis	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 4, 6, 10, 12, 16, 18 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear from the specification how ingress area is shaped to optimize the processing effect of the one or more rotating blades as recited in claims 4, 10 and 16. Also, it is not clear from the specification how ingress area is sized and shaped to take advantage of the geometry of the rotating tool at the peripheral impact region thereof as recited in claims 6 and 18. Furthermore, it is not clear from the specification how the said ingress area is sized and shaped so that the geometry of the one or more rotating blades at the one more impact regions utilized as recited in claim 12. Also, it is not clear from the specification how the ingress area is sized and/or shaped to allow at least a substantial portion of an outermost impact region effectively interact with the foodstuff as recited in claim 20.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 4-6, 10-12, 16-18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 10 and 16 are indefinite since all that the applicant considers to be encompassed by the phrase "said ingress area is shaped to optimize the processing effect of said one or more rotating blades" cannot be determined.

With respect to claims 5, 11 and 17: the scope of the claim is unclear because of the improper use of Markush therein.

Claims 6 and 18 are indefinite because it is not clear what the phrase "said ingress area is sized and shaped to take advantage of the geometry of said rotating tool at said peripheral impact region thereof" is intended to encompass.

With respect to claim 12: the phrase "said ingress area is sized and shaped so that the geometry of said one more rotating blades at said one or more impact regions is utilized" is confusing. The relationship between the size and the shape of ingress area to the rotating blades cannot be determined.

With respect to claim 20: the phrase "the ingress area is sized and/or shaped to allow at least a substantial portion of an outermost impact region effectively interact with the foodstuff" is confusing. The relationship between the size and the shape of ingress area to the outermost impact region cannot be determined. What outermost impact region?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Brady et al [6,748,853], hereinafter Brady.

Brady discloses in Figs 1-12, a cover [lid 32] for food processing appliance comprising: a first side for cooperating with a container [body member 10, base 12 and bowl 16], the container cooperating with an operating base 12, operating base having one more rotating blades/processing tools 98, a center of rotation [shaft 18], and more impact regions [Fig 1], the one more impact regions being distanced radially from the center rotation, a second side, opposite the first side, having an ingress area [feed tube 38] for cooperating with an accessory tool [pusher 54], wherein the ingress area overlies the one or more impact regions without overlapping the center of rotation when the cover operatively connected to the container and the container is operatively connected to the operating base [shaft 18 enters the bushing 33, see col 6 lines 28-48 and Fig 1] as recited in claims 1, 7 and 13. Additionally, Brady discloses the ingress area has a cross-

sectional area **substantially equal** to half that of a lower side of the cover [Fig 1] as recited in claims 2, 8 and 14.

7. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ling et al [6,058,833], hereinafter Ling.

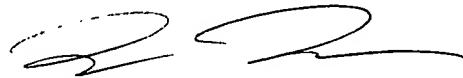
Ling discloses in Figs 1-2, a cover [lid 2] for food processing appliance comprising: a first side for cooperating with a container [retainer 4, flow guide 7 and paste collector 5], the container cooperating with an operating base 8, operating base having a grating disc 3 corresponding to the claimed rotating blade/processing tool, a center of rotation [shaft 81], and more impact regions [Fig 2], the one more impact regions being distanced radially from the center rotation, a second side, opposite the first side, having an ingress area [opening 21] for cooperating with an accessory tool [Fig 2], wherein the ingress area overlies the one or more impact regions without overlapping the center of rotation when the cover operatively connected to the container and the container is operatively connected the operating base [Fig 2] as recited in claims 1, 7 and 13. Additionally, Ling discloses the ingress area has a cross-sectional area **substantially equal** to half that of a lower side of the cover [Fig 2] as recited in claims 2, 8 and 14.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Faye Francis

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